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JOHN F. DAVIS, CLERK

IN THE
SUPREME COURT OF THE UNITED STATES
October Term, 1961

No. 705

GENERAL FINANCE CORPORATION,
Appellant,

v.

AUGUST ARCHETTO, TAX ASSESSOR,
Appellee.

ON APPEAL FROM THE SUPREME COURT
OF THE STATE OF RHODE ISLAND
AND PROVIDENCE PLANTATIONS

APPELLANT'S MOTION FOR LEAVE TO FILE MULTILITH BRIEF

APPELLANT'S BRIEF IN OPPOSITION TO APPELLEE'S MOTION TO DISMISS

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Appellant, General Finance Corporation, respectively moves that it be granted leave to file a multilith brief in opposition to Appellee's motion to dismiss and motion to affirm filed in this court on or about March 3, 1962. Appellant prays for leave to be excused from the requirements of Supreme Court Rule 39 (1).

By its Attorney,

PONTARELLI & BERBERIAN

ARAM K. BERBERIAN

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BRIEF IN OPPOSITION TO APPELLEE'S MOTION TO DISMISS AND MOTION TO AFFIRM

1. Appellee states in his paragraph No. 1 in his motion to dismiss that the Rhode Island Supreme Court concluded that the instant case did not present facts capable of raising the federal constitutional question. Notwithstanding Appellee's conclusion, the Rhode Island Supreme Court decided that the church-tax exemption did not in fact and in law violate Article I of the Amendments to the United States Constitution. See lower court's opinion page 23 in Appellant's Jurisdictional Statement.

2. Appellee's ground No. 6 in his motion to dismiss states that the lower court's reference to the federal constitutional question is ~~overta~~ Quinter dictum. Notwithstanding Appellee's averment to that effect, Appellant in its original petition alleged that the state exemption statutes were violative of Article XIV of the Amendments to the United States Constitution. See paragraph 8 in Appellant's Petition for Relief from Assessment filed in the Providence Country Superior Court, printed on page 10 of its Jurisdictional Statement. In answer thereto the

lower court stated in its opinion that violation of the federal constitution was one of the Appellant's contention in the Rhode Island courts. See opinion of the Rhode Island Supreme Court on page 16 of Appellant's Jurisdictional Statement.

3. Appellee states in ground No. 7 in his Motion to dismiss that the major thrust of the Appellant's argument was violation of the Rhode Island Constitution. Notwithstanding Appellee's statement to that effect Appellant's contentions in the Rhode Island state courts were that the tax exemption statute violated both federal and state constitutions.

4. Appellee in his ground No. 8 of his motion to dismiss avers that Appellant failed to request that the state tax exemption statutes be declared unconstitutional. In fact, Appellant averred in its petition to the Rhode Island Superior Court that the Rhode Island tax exemption statutes were in derrogation of both federal and state constitutions and by reason of such illegality it ought to be granted relief from assessment of taxation in accordance with the procedure therefore set forth by applicable Rhode Island statutes.

WHEREFORE, Appellant prays that Appellee's motion to dismiss be denied.

Respectfully submitted,

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